IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 5649 of 2005

Between:

G. Madhusudhan Rao, S/o. G.Venkatapathi,
R/o. Pulivendula, Kadapa District.

..... PETITIONER

AND

1 The A.P.S.R.T.C., rep. by its Chairman and M.D.,

Musheerabad, Hyderabad.
2 The A.P.S.R.T.C., rep. by Regional Manager, Kadapa Region,

Kadapa District.
3 The A.P.S.R.T.C., rep. by its Depot Manager, Pulivendula Depot,

Pulivendula, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in imposing two penalties of with holding petitioner annual increments for a period of six months which shall have effect on your future increments by the 3rd respondent by its proceedings No.M1/1(16)/92-PLVD dt.25.3.1991 and Proceedings No.M1/1(64)/91-PLVD, dated 20.5.1991 is wholly, illegal, arbitrary and unjust and contrary to law and also violative of principles of natural justice and violative of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to pay petitioner increments with arrears and with all other attendant benefits and pass such other order or orders.

Counsel for the Petitioner: MRS.B.MALLESWARI

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the stage of admission made the following:

ORAL ORDER:

The petitioner is working as Conductor in the respondents-Corporation. He was issued two charge sheets on 8.2.1991 and 9.5.1991 respectively on the allegation of misconduct and after receiving the explanation of the petitioner, final order was passed on 25.3.1991 imposing penalty of withholding of one annual increment for a period of six months with cumulative effect. The petitioner questioned the order on the ground that though the reduction of annual increment for a period of six months with cumulative effect is a major penalty, the 3rd respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside. He filed an appeal before the appellate authority but no orders have been passed thereon.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner, after receiving the adverse orders, slept over the matter for a period of 13 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside in view of the judgment of the Supreme Court in Kulwant Singh Gill (1 supra), on account of long lapse of time in filing the writ petition, I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment for a period of six months without cumulative effect. But, the petitioner is not entitled to the difference of the amount, if any, by virtue of this order for the period from the date of the impugned

order till the date of this order. However, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of one annual increment for six months without cumulative effect.

4.The Writ Petition is accordingly disposed of with the above observations. No costs.

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(K.C. BHANU, J.)

24-03-2005

bcj

To

1 The Chairman and M.D., A.P.S.R.T.C.,

Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C., Kadapa Region,

Kadapa District.
3 The Depot Manager, A.P.S.R.T.C., Pulivendula Depot,

Pulivendula, Kadapa District.

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